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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/685,247	10/14/2003	Gary T. Dane	SMI0077.US	3999
7590 12/23/2008				
Todd T. Taylor TAYLOR & AUST, P.C. 142 S. Main St. P.O. Box 560 Avilla, IN 46710		EXAMINER CASTELLANO, STEPHEN J		
		ART UNIT 3781		
		DELIVERY MODE PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/685,247

Applicant(s)

DANE ET AL.

Examiner

/Stephen J. Castellano/

Art Unit

3781

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 September 2008.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1, 3-8, 18-25, 27, 29 and 31-36 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-8, 18-25, 27, 29, 34-36 is/are rejected.
- 7) ☒ Claim(s) 22 and 31-33 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____

Claims 2, 9-17, 26, 28 and 30 have been canceled. Claims 1, 3-8, 18-25, 27, 29 and 31-36 are pending.

Claim 22 is objected to because it depends from canceled claim 9. Claim 22 is incomplete because it depends from a canceled claim.

The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 34-36 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Applicant's original disclosure never mentions a "fully engaged" configuration. **This is a new matter rejection.**

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 18-21, 23-25, 29, 34 and 36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltz in view of Liu.

Saltz discloses a sterilization case assembly comprising a plurality of cases (box units 12), second case (any unit 12 stacked directly above a first case 12) stacked upon a first case (any case 12 stacked directly below a second case) in vertical direction, the front side of the

assembly is toward the right of the Fig. 1 and 2, the second case is offset from the first case in the Fig. 1 view, each of the cases are movable between closed and open positions (by door 28). Saltz discloses the general box shape and each case having top and bottom walls, the bottom wall of a second case directly contacting the top wall of a first case. The bottom wall of a second case being offset from the top wall of a first case upon which the second case is stacked upon in frontward to rearward direction with the cases in a closed position is accomplished by a sliding connection of rails 52 and 54.

Saltz discloses the invention except for the drawers. Liu teaches a similar stackable case assembly with drawers. It would have been obvious to modify each of the cases (box units 12) of Saltz to have their rear walls defined by removable covers to be replaced with drawers as the access to the drawer from the top is easier and usually better lighted than the side access of the removable cover.

Re claim 3, a case could be defined by a plurality of box units, then one case having a plurality of box units 12 includes a plurality of drawers.

Re claims 21 and 23, Saltz discloses the top and bottom registration elements. However, Saltz doesn't disclose registration elements of partially spherical configuration. Registration elements are provided in many different shapes. Official notice is taken that partially spherically shaped registration elements are well known in the stacking art. It would have been obvious to modify the shape of the registration elements as a matter of design choice in choosing a registration element that doesn't require sliding in one direction, is less pronounced and that is more aesthetically pleasing in appearance than a linear sliding rail configuration.

Re claims 25, 26, 29 and 30, the forward direction of the case or unit is located at the door 28 side. Therefore, the stack of cases is able to offset a center of gravity forward shift of the stair stepped stack to prevent tipping when one or more drawers are slid open.

Claims 4 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltz in view of Liu as applied to claims 3 and 1 above, and further in view of Holsinger.

The combination of Saltz and Liu discloses the invention except for the hinged front cover of claim 4 and the hinged lid of claim 5. Holsinger teaches a hinged front cover and a hinged lid. It would have been obvious to add the front cover and lid to add additional closing to the drawer structure and cases to add to the security of closure as drawers may inadvertently open and spill their contents.

Claim 6 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltz in view of Liu and Holsinger as applied to claim 5 above, and further in view of Hunnell et al (Hunnell).

The Saltz-Liu-Holsinger combination discloses the invention except for the lid being removable. Hunnell teaches a removable lid. It would have been obvious to modify the hinged lid to be removable to replace the lid in case of breakage or damage without the need to replace the entire container.

Claim 7 is rejected under 35 U.S.C. 103(a) as being unpatentable over Saltz in view of Liu and Holsinger as applied to claim 5 above, and further in view of Trower.

The combination discloses the invention except for the handle and recessed pocket. Trower teaches a handle and recessed pocket interlocking means. It would have been obvious to add the handle and recessed pocket of Trower to provide secure fastening in the stacked position to prevent stacked articles from separating.

Claims 8, 22, 27 and 35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saltz in view of Liu and Trower.

Saltz discloses the invention except for the drawers, handle and recessed pocket. Liu teaches the drawers and is combined with Saltz as previously discussed for the rejection combining Saltz and Liu. Trower teaches a handle and recessed pocket interlocking means. It would have been obvious to add the handle and recessed pocket of Trower to provide secure fastening in the stacked position to prevent stacked articles from separating.

Claims 31-33 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Applicant's arguments filed September 4, 2008 have been fully considered but they are not persuasive. It may be true of Saltz that when seated or stacked and with the containers offset the doors may not be closed. The rejection combines references. Saltz's door is replaced with the drawer of Liu and this drawer within Saltz would be allowed to close when the containers are seated/stacked and the containers are offset.

An attempt was made to allow the subject matter of claims 31-33 by examiner's amendment with a telephone call made December 9, 2008, applicant's representative had not heard from his client as of the date this action was written. An examiner's amendment could be made after this action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Stephen J. Castellano whose telephone number is 571-272-4535. The examiner can normally be reached on increased flexibility plan (IFP).

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Stephen J. Castellano/
Primary Examiner
Art Unit 3727

sjc